

**ENTERED**

March 18, 2016

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

|                          |   |                                 |
|--------------------------|---|---------------------------------|
| UNITED STATES OF AMERICA | § |                                 |
|                          | § |                                 |
| VS.                      | § | CRIMINAL ACTION NO. 2:16-CR-144 |
|                          | § |                                 |
| HILARIO IBARRA-PENA      | § |                                 |

**MEMORANDUM OPINION AND ORDER OF DETENTION PENDING TRIAL  
AND ORDER DENYING MOTION FOR RECONSIDERATION**

On February 4, 2016, Defendant Ibarra-Pena waived his right to a detention hearing without prejudice. Pending is Defendant's motion for reconsideration of the detention issue (D.E. 13). The motion has been referred to undersigned. The court finds that a hearing is not necessary. The following requires detention of the Defendant pending trial in this case:

- (1) There is a serious risk that the Defendant will not appear; and
- (2) There is a serious risk that the Defendant will endanger the safety of another person or the community.

The evidence against the Defendant meets the probable cause standard, based on the indictment returned by the Grand Jury charging him with illegal re-entry after deportation. The findings and conclusions contained in the Pretrial Services Report are adopted. Defendant's counsel is presently pursuing a determination by the immigration authorities that his client has derivative citizenship because his father is a United States citizen. Presently there is an immigration hold on the Defendant. If he were to be released on bond, he faces immediate deportation, making him a serious risk of flight.

Accordingly, the motion for reconsideration of detention is denied without prejudice. Presently, the Defendant has no status to live, work, or stay in the United States. Should Defendant's counsel succeed in having the immigration detainer withdrawn, the issue of detention will be revisited. Until then, detention is appropriate.

The Defendant is committed to the custody of the United States Marshal or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the Defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

ORDERED this 18th day of March, 2016.

  
B. JANICE ELLINGTON  
UNITED STATES MAGISTRATE JUDGE